

(NB) #  
219,026  
Patent  
11-7-97  
[Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kalyana Sundram et al.

Serial No. 08/626,461

Filed: April 2, 1996

For: INCREASING THE HDL LEVEL  
AND THE HDL/LDL RATIO IN  
HUMAN SERUM BY BALANCING  
SATURATED AND  
POLYUNSATURATED DIETARY  
FATTY ACIDS

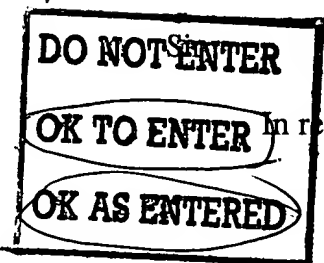
Group Art Unit 1302

Examiner Paden, C.

October 27, 1997

Amendment After Final Under 37 CFR 1.116

Assistant Commissioner for Patents  
Washington, D.C. 20231



In response to the Office Action mailed June 26, 1997, in which the Examiner finally

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

October 27, 1997  
date of deposit

CARA GRIFONE  
name of person mailing paper  
Cara Grifone  
signature of person mailing paper

rejected the pending claims, Applicant respectfully requests that the Examiner consider the following remarks in view of the attached Terminal Disclaimer and the attached Declaration of Guy Bradley, and reconsider and withdraw the rejections.

The Examiner rejected claims 1-47 under the judicially created doctrine of obviousness-type double patenting over claims 1-29 of U.S. Patent No. 5,578,334, stating that the submitted Terminal Disclaimer was defective.

Applicant requests that the Examiner enter the attached new Terminal Disclaimer submitted under 37 CFR 1.321 (b) and (c). In light of this Terminal Disclaimer, Applicant requests that the Examiner reconsider and withdraw this rejection.

The Examiner rejected claims 1, 23, 26, and 31-33 under 35 USC §112 second paragraph, as allegedly being indefinite. The Examiner asserted that it is not understood what is meant by the recitation "Step 1 diet of the American Heart Association". Applicant requests that the Examiner reconsider this rejection in light of the attached Declaration of Guy Bradley and the following remarks.

As demonstrated by the attached Declaration, the meaning of the phrase "Step 1 diet of the American Heart Association" is understood by those of ordinary skill in the art, in particular by those in the field of human nutrition. Specifically, the phrase indicates that the proportions of saturated fats, monounsaturated fats, and polyunsaturated fats as specified in the pending claims are consistent with the proportions of those fats in the Step 1 diet recommendations of the American Heart Association. As one of ordinary skill in the art

understands the relative amounts of the specified fat types in the AHA Step I Diet, the cited phrase is not indefinite. Therefore, Applicant requests that the Examiner reconsider and withdraw this rejection.

In view of the attached Terminal Disclaimer and Declaration of Guy Bradley, and the above remarks, Applicant submits that the claims are in condition for allowance and respectfully requests a notice to that effect.

A petition requesting a one month extension of time and the fee for that extension, the Notice of Appeal, and the Terminal Disclaimer accompany this communication. No additional fee is believed due, however, if any additional fee is due, kindly charge the appropriate amount to Deposit Account No. 12-2475.

Respectfully submitted,

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By



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